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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,039	09/15/2003	Isaak Volynsky	MAT 3H2	1665
23581	7590	07/30/2007		
KOLISCH HARTWELL, P.C. 200 PACIFIC BUILDING 520 SW YAMHILL STREET PORTLAND, OR 97204			EXAMINER HYLINSKI, ALYSSA MARIE	
			ART UNIT 3711	PAPER NUMBER
			MAIL DATE 07/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/663,039

Applicant(s)

VOLYNSKY, ISAAK

Examiner

Alyssa M. Hylinski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-23, 25-34, 36-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Piotrovsky (4470784). Piotrovsky discloses a hollow body portion due to its having a cavity or space therein (Fig. 2) that will form the inner supporting structure of an appendage for a toy figure (Fig. 3) with at least one engagement portion having a first engagement portion in the form of a cylindrical boss (36) for pivotably connecting the insert to another portion of the toy figure such as the torso (Fig. 1) and a second engagement portion formed by a tab (34) that engages the limb portion of the toy (Fig. 2). The boss is attached to the tab (34), which has a convex surface for supporting the boss and a reinforcement ridge for supporting the engagement portion (Fig. 2). The insert is also equipped with a plurality of pins and pegs (56, 46) for stabilizing the insert within a mold so as to injection mold the toy figure (Fig. 8). The insert is shaped to partially conform to an outer surface of the appendage (Fig. 8). The tab and boss each have a substantially semicircular edge that is configured to rotate smoothly within an outer covering of the toy figure (Fig. 2, column 2 lines 58-63). The insert is composed of a first upper body segment (32) that is joined with a second lower body segment (40) to create the hollow body insert, the parts are capable of being

detached since they are not constructed as a unitary member (Fig. 2). The hollow body insert is meant for use within a toy figure having a torso and limbs (Fig. 1) made of a soft flesh-like outer layer molded over the insert (column 2 lines 58-63). The reference discloses the basic inventive concept, substantially as claimed with the exception of the inner supporting structure or hollow insert occupying at least 50-70 percent of the volume of an associated portion of the appendage and the maximum diameter of the insert extending at least 70-75 percent across a diameter of the associated portion of the appendage. The examiner notes that it has been held that where the only difference between the prior art and the claimed device is a recitation of the relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art then the claimed device is not patentably distinct from the prior art. Furthermore, changes in size are generally recognized as being within the level of ordinary skill in the art and as such a modification on the size of the insert would be entirely obvious. See *in re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955) and *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984).

3. Claims 7 and 35 rejected under 35 U.S.C. 103(a) as being unpatentable over Piotrovsky and Weis (2174932). Piotrovsky discloses the basic inventive concept, substantially as claimed, with the exception of the body portion being frustoconical in shape. Weis discloses an internal support structure for a figure or manikin that is covered in a soft, flesh-like outer covering (column 2 lines 3-17) including a hollow frustoconical shaped insert (54) positioned therein (Figs. 1, 9 & 10). Pitrovsky discloses

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a non-frustoconical shaped insert, however, Weis discloses that the use of hollow frustoconical shaped inserts in molded figures would be an art-recognized equivalent at the time of invention. Therefore, one of ordinary skill in the art would have found it obvious to substitute the hollow insert of Pitrovsky for a frustoconical shaped insert of Weis.

4. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pitrovsky and Hanf (3609911). The references disclose the basic inventive concept, substantially as claimed, with the exception of the engagement portion using a hollow dowel and a hollow boss to allow for a pivotal connection between components of a toy figure. Hanf discloses a toy having a pivotable joint formed by a dowel engaged in a hollow boss (Fig. 1). It would have been obvious to one of ordinary skill in the art from the teaching of Hanf to use a dowel and boss in order to create a movable joint in a toy figure. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to make the dowel hollow because Applicant has not disclosed that making the dowel hollow provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with a solid dowel because it would still allow for a pivotal connection.

Response to Arguments

5. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Hylinski whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMH



EUGENE KIM
SUPERVISORY PATENT EXAMINER